

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

BARBARA KAISER and ANTON KAISER,)	
)	
Plaintiffs,)	
)	
v.)	Cause No. 2:17-cv-114-PPS-JEM
)	Honorable Philip P. Simon
JOHNSON & JOHNSON and)	
ETHICON, INC.,)	
)	
Defendants.)	

DEFENDANTS' NOTICE OF APPEAL

Notice is hereby given that Defendants ETHICON, INC. and JOHNSON & JOHNSON in the above-captioned case hereby appeal to the United States Court of Appeals for the Seventh Circuit from the amended final judgment of the District Court, entered in this case on August 21, 2018 (Docket No. 427), and all interlocutory orders and determinations merged in or giving rise to that judgment, including but not limited to the original judgment, entered in this case on March 19, 2018 (Docket No. 408), and the following orders:

- the Order (Docket No. 425) entered on August 20, 2018 granting in part Plaintiffs' motion for bill of costs;
- the District Court's refusal to entertain Defendants' objection or give a curative instruction in response to Plaintiffs' improper closing argument;
- the District Court's ruling admitting testimony from Dr. Meng Chen regarding products that are not at issue in this case;
- the District Court's ruling rejecting Defendants' request for an instruction based on the "state of the art" defense;

- the District Court's ruling refusing to give an adequate instruction on the elements of Plaintiffs' failure-to-warn claim;
- the Order (Docket No. 423) entered on August 8, 2018 denying Defendants' renewed motion for judgment as a matter of law, denying Defendants' motion for a new trial, denying Defendants' motion for remittitur of compensatory damages, and denying in part Defendants' motion to reduce punitive damages;
- the Order (Docket No. 407) entered on March 16, 2018 denying Defendants' Motion to admit FDA evidence and granting Plaintiffs' motion *in limine* to exclude FDA evidence;
- the Order (Docket No. 350) entered on February 21, 2018 regarding admission of certain exhibits to the deposition of Meng Chen;
- the Order (Docket No. 348) entered on February 20, 2018 excluding certain evidence;
- the Order (Docket No. 329) entered on February 7, 2018 denying in part Defendants' motion to exclude testimony from Daniel Elliott, M.D.;
- the Order (Docket No. 156) entered on February 21, 2017 denying Defendants' motion for summary motion and denying in part Defendants' alternative motion for partial summary judgment;
- the Order (Docket No. 155) entered on February 14, 2017 denying in part Defendants' motion to exclude testimony from Vladimir Iakovlev, M.D.;
- the Order (Docket No. 154) entered on January 25, 2017 granting in part Plaintiffs' motions *in limine* and denying in part Defendants' motions *in limine*;

- the Order (Docket No. 153) entered on September 2, 2016 granting in part Plaintiffs' motion to exclude or limit testimony from Salil Khandwala, M.D.;
- the Order (Docket No. 152) entered on September 2, 2016 granting in part Plaintiffs' motion to exclude testimony from Shelby Thames, Ph.D.;
- the Order (Docket No. 151) entered on September 1, 2016 denying in part Defendants' motion to exclude testimony from Vladimir Iakovlev;
- the Order (Docket No. 150) entered on August 31, 2016 granting in part Plaintiffs' motion to exclude or limit testimony from Elizabeth Kavalier, M.D.;
- the Order (Docket No. 148) entered on August 26, 2016 denying in part Defendants' motion to exclude testimony from Daniel Elliott, M.D.;
- the Order (Docket No. 147) entered on August 25, 2016 denying in part Defendants' motion to exclude testimony from Peggy Pence, Ph.D.;
- the Order (Docket No. 146) entered on August 25, 2016 granting in part Plaintiffs' motion to exclude testimony from Timothy Ulatowski;
- the Order (Docket No. 145) entered on August 25, 2016 granting in part Plaintiffs' motion to exclude testimony from Maria Abadi, M.D.;
- the Order (Docket No. 144) entered on August 24, 2016 denying in part Defendants' motion to exclude testimony from Dr. Uwe Klinge;
- the Order (Docket No. 94) entered on March 10, 2016 denying Defendants' motion to strike reports of Vladimir Iakovlev, M.D.;
- and any other order, ruling, or determination that is adverse to Defendants.

Dated: September 6, 2018

Respectfully submitted,

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*Counsel for Defendants Ethicon, Inc. and
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 6, 2018, a copy of the foregoing was filed electronically via the Court's CM/ECF system, which will have sent notice to the attorneys of record in this matter.

/s/ Amy M. Pepke
Amy M. Pepke